

**Applicant:** Ruth Mueller and Daniel Poli

**Agent:** N/A

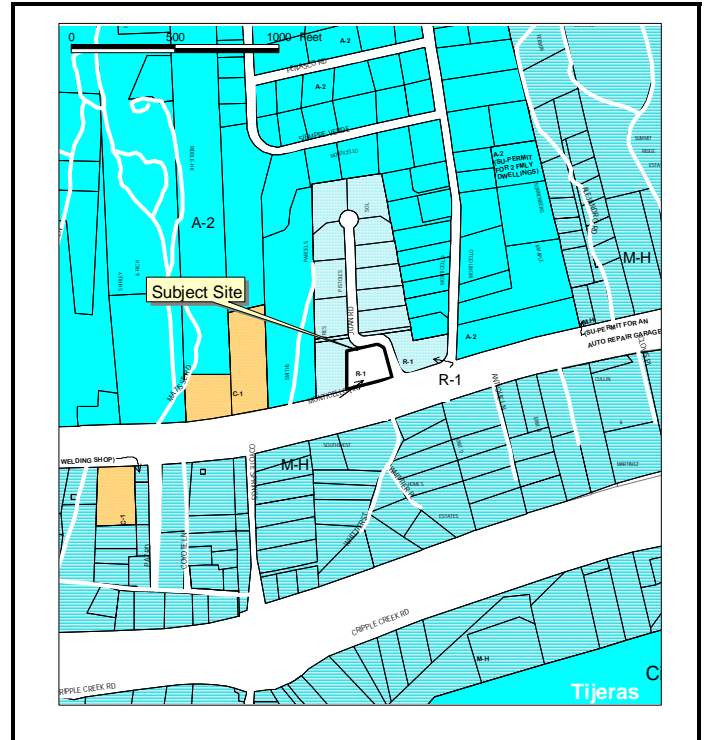
**Location:** 143 Old US 66 East

**Property Size:** Approximately .80 acre

**Existing Zone:** R-1

**Proposed Request:** O-1

**Recommendation:** Denial



**Summary:** The applicant is requesting a zone change from R-1 to O-1 to accommodate new office uses in the East Mountain Area. The site is surrounded by R-1 and A-2 zoning and is not located in a Commercial Corridor or Node as identified by the East Mountain Area Plan.

**Staff Planner:** Mari Simbaña, Program Planner

**Attachments:** 1. Application  
2. Land Use and Zoning Map

Bernalillo County Departments and other interested agencies reviewed this application from February 28, 2006 to March 13, 2006.  
Agency comments were used verbatim in preparation of this report, and begin on page 10.

**AGENDA ITEM NO.: 16**  
**County Planning Commission**  
**April 5, 2006**

CZ-60007 Daniel Poli & Ruth E. Muller request approval of a zone map amendment from R-1 to O-1 on Lot 4A2, Tres Pistoles Del Sol Subdivision, located at 143 Old US 66 East, on the northwest corner of Old US 66 East and Juan Road, containing approximately .80 acres. (L-25)

**AREA CHARACTERISTICS AND ZONING HISTORY**  
**Surrounding Zoning & Land Uses**

<b>Site</b>	<b>Zoning</b>	<b>Land Use</b>
	A-2	Residential
<b>North</b>	Right-of-Way A-2	Juan Road Residential-Tres Pistolas Sol Subdivision
<b>South</b>	Right-of-Way M-H	Old US 66 Residential
<b>East</b>	A-2	Residential-Monticello Subdivision
<b>West</b>	A-2	Vacant

## **BACKGROUND:**

### **The Request**

The applicant is requesting a zone change from R-1 to O-1 in the East Mountain Area of Bernalillo County for a property that fronts Old US 66. There is currently a building and storage shed on the property. Specifically, the applicant plans to renovate the existing structure to use as offices in which to practice natural therapies.

In November 1974, the Board of County Commissioners approved a Special Use Permit for a Retail Curios and Gift Shop on the southerly two acres of Lot 4 of the Monticello Subdivision. A single family dwelling was also allowed. Lots 4 and 5 of the Monticello Subdivision, equaling approximately 9 acres, were granted a zoned change from A-2 to R-1 in April 1981. This property was subsequently divided into three separate lots, with the Special Use Permit still intact. The Special Use Permit was cancelled in February 2006 after years of inactivity.

### Request Justification

The applicant explains that the intended natural therapies services have limited hours of operation and clientele, which will generate minimal traffic. The applicant believes that O-1 would be appropriate for this site and that the proposed uses would be consistent with the community's wishes for neighborhood-scale businesses.

### **Surrounding Land Use and Zoning**

The subject site is located along Old Highway 66 and bordered by Juan Rd. to the east but is not within a Commercial Corridor or Node as designated by the East Mountain Area Plan (1992). However, this portion of Old Highway 66 contains the only semi-contiguous properties that allow for commercial uses in the entire West Tijeras area. The subject site is part of a cluster of properties zoned R-1. The majority of the surrounding properties to the north of this are zoned A-2 and to the south, across the highway, are zoned M-H. The third property to the east from the subject site, is zoned A-2 with a Special Use Permit for Auto Repair. The third and fourth properties to the west are zoned C-1. Toward the southwest of the subject site, at Paz Rd., there is a small property zoned M-H with a Special Use Permit for a Welding Shop. Immediately west of that, lies a C-1 zoned property.

## **APPLICABLE PLANS AND POLICIES:**

### **Albuquerque/Bernalillo County Comprehensive Plan**

**Policy 3** The stated Goal of the Rural Area is "to maintain the separate identity of Rural Areas as alternatives to urbanization by guiding development compatible with their open character, natural resources, and traditional settlement patterns." The following includes applicable policies:

**Policy 3.a.** of the Rural Area Goal states that "higher density development may occur at appropriate locations. Rural Area density patterns shall be more specifically defined through

lower rank planning. Each higher density area is to be controlled by site development plan and is to be located well away from other such higher density areas.”

**Policy 3.b** states that “Development in Rural Areas shall be compatible with natural resource capacities, including water availability and capacity, community and regional goals and shall include trail corridors where appropriate.”

**Policy 3.f** states that “Development shall be carefully controlled in the East Mountain Area to prevent environmental deterioration, and to be compatible with the resource base and natural recreational and scenic assets.”

**Policy 3.g** states that “the following shall guide industrial and commercial development in the Rural Areas.”

- Small-scale, local industries, which employ few people and may sell products on the same premises, are the most desirable industrial use.
- Neighborhood and/or community-scale rather than regional scale commercial centers are appropriate for rural areas. Strip commercial development should be discouraged and, instead, commercial development should be clustered at major intersections and within designated mountain and valley villages.”

**Policy 6** Economic Development goal is, “to achieve steady and diversified economic development balanced with other important social, cultural, and environmental goals.”

**Policy 6.a** states that, “New Employment opportunities which will accommodate a wide range of occupational skills and salary levels shall be encouraged and new jobs located convenient to the areas of most need.”

**Policy 6.b** states that, “Development of local business enterprises as well as the recruitment of the outside firms shall be emphasized.”

**Policy 6.g** states that, “Concentrations of employment and Activity Centers should be promoted in an effort to balance jobs with housing and population and reduce the need to travel.”

### **East Mountain Area Plan Goals and Objectives**

*Land Use Section, Page 12-13*

Goal: To promote development that retains the unique character of the East Mountain Area - *Objective 11c* states that, “Neighborhood and/or community scale commercial uses, rather than regional-scale commercial centers, are appropriate for rural areas. Strip commercial should be discouraged, and where possible, commercial development should be constrained to areas that are designated as appropriate for commercial development.”

- *Objective 11e* states that, "Commercial growth and development should be consistent with policies that retain the rural character of the East Mountain Area."

*Environment, Page 13*

Goal: To maintain and improve the existing visual quality of the East Mountain Area

*Objective 4:* Encourage the use of building materials that are in harmony with the landscape, minimize the alteration of existing vegetation and topography on building sites, and minimize the visibility of buildings and incidental structures.

**Rural Character Page 37:**

"Some more specific characteristics of the East Mountain Area follow: ... Locally-owned and operated commercial enterprise providing distinctive locally produced products to a wider market. "

"It is important to the East Mountain Area residents that rural character be preserved. People who choose to live in rural areas typically do so from an attachment to the different lifestyle available, an appreciation of the natural character of the area, and a belief that this character is important to preserve."

**Policies and Recommendations Page 74**

*Land Use #4* Commercial development should occur in the commercial nodes identified on the Transportation Network and Commercial Nodes Map or in Master Plan areas approved by Bernalillo County.

*Land Use #10.* New employment uses shall be of an appropriate scale to meet the needs of the area residents and not degrade the environment.

**Bernalillo County Zoning Ordinance**

**Resolution 116-86** defines criteria for evaluating a Zone Map changes and Special Use Permit applications.

The following policies for deciding zone map changes and Special Use Permit applications pursuant to the adopted Bernalillo County Zoning Ordinance.

- A. A proposed land use change must be found to be consistent with the health, safety and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.
- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan of other Master Plans and amendments thereto including privately developed area plans which have been adopted by the Board of County Commissioners.

- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
  - 1. An error in the original zone map.
  - 2. Changed neighborhood conditions, which justifies a change in land use or
  - 3. That a different use category is more advantageous to the community as articulated in the Comprehensive Plan or other land use plans as adopted by the Board of County Commissioners.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- H. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
  - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
  - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.
- I. A zone change request, which would give a zone different from the surrounding zoning to a strip of land along a street, is generally called a "strip zoning." Such a change of zone may be approved only when:
  - 1. The change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
  - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

## **Section 19: Landscaping and Buffer Landscaping Regulations:**

Where a nonresidential zone which is hereafter developed for a business purpose abuts a

residentially zoned property, special buffer landscaping is required to minimize noise, lighting and sight impact of the nonresidential activities in the residential area.

A. Landscaping and buffer landscaping will be required in all zones for office, commercial, industrial, and multifamily residential uses; R-1, A-1, A-2 and M-H residential uses are exempt.

1. Sites of one acre or less:

- a. There shall be a landscaped setback along all streets of no less than ten feet.
- b. There shall be a landscaped buffer of six feet between single-family residential uses and office, commercial, industrial, and multifamily residential uses.
- c. Fifteen percent of all paved areas shall be landscaped. The landscaped setback shall contribute toward this requirement.

2. Sites one acre and up to five acres. There shall be a landscaped setback along all streets of no less than 15 feet. All other requirements same as 1.b. and 1.c. above.

B. In a nonresidential zone, a solid wall or a solid fence at least six feet high shall be erected on sides abutting a single family residential use, except for those sides abutting public right-of-way.

E. Landscaping which dies shall be replaced by the property owner who is obligated to provide it as expeditiously as possible, but in no case longer than 30 days after notification. If the 30-day period falls at a time of the year when planting of landscaping is inadvisable, a waiver may be granted by the Zoning Administrator to allow planting at the earliest possible time. The waiver and date of the planting deadline shall be recorded by the County Zoning Office.

G. Parking spaces within a parking lot shall be no more than 50 feet from a tree.

H. Nonconforming Landscaping. Premises which, when they were developed, were not required to be developed in accordance with the Landscaping and Buffer Landscaping Regulations Section of this ordinance, shall be made to conform with this regulation within two years due to the amendment of the map or text of this ordinance.

#### **ANALYSIS:**

##### **Surrounding Land Use and Zoning**

The subject site is surrounded by R-1 and A-2 zoning. The nearest O-1 zoned properties are along Highway North 14, the closest one being approximately 6 miles away, just north of Penny Lane.

### Plans

Albuquerque/Bernalillo County Comprehensive Plan policies (Rural Area Policy 3g; Economic Development Policy 6a, 6b, 6g) states that small-scale, local industries are desirable and call for these uses to be located so as to complement residential areas and be sited to minimize adverse effects of noise, lighting, pollution, and traffic on residential environments. The proposed establishment of office space is compatible with the rural goals within the Albuquerque/Bernalillo County Comprehensive Plan and the East Mountain Area Plan for small-scale, locally-owned and operated business activity.

### Zoning Ordinance

Resolution 116-86 requires that a land use change must clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan. The subject site is not located along or in a Commercial Corridor or Node designated by the East Mountain Area Plan (1992). In light of the rural character of the East Mountain Area and the site's isolation from other commercially zoned properties, the request for a C-1 zone seems inappropriate and would constitute a spot zone.

### Agency Comments

The applicant must work with Environmental Health staff to ensure that all existing and proposed water and wastewater systems can comply with Bernalillo County regulations. New construction may require a grading and drainage plan. Public Works Division staff note that the size and frequency of services will affect parking accommodation. Also, staff states that access should be taken off of Juan Road. However, the applicant will have to apply for a driveway permit from the NM Department of Transportation if the desired access is off Old Highway 66.

### Analysis Summary

Zoning	
Resolution 116-86	A zone change from A-2 to O-1 will constitute a spot zone as the subject site not adjacent to other commercially zoned properties nor in a commercial node or corridor.
Plans	
Comprehensive Plan	The request attempts to address the goals of the Comprehensive Plan of encouraging a small-scale, locally-owned and operated industry that complements residential areas and reduces the need to travel but fails in that the subject site is not clustered at a major intersection or in a designated commercial area.
Area Plan	The proposed office uses conform to the East Mountain Area Plan in that they maintain a community scale commercial use and promote locally-owned and operated business but the subject site is not in a Commercial Corridor or Node.



Other Requirements	
Environmental Health	Applicant must show that water and wastewater systems meet current Ordinances.

### **Conclusion**

The request aims to follow the *Albuquerque/Bernalillo County Comprehensive Plan* recommendation of small scale, locally owned industries although the subject site is not in a Commercial Corridor or Node as designated in the *East Mountain Area Plan* (1992). The application includes a letter of support of the request signed by neighbors. This zone change request constitutes a spot zone in that it would be different than the existing zoning in the surrounding area. Because the applicant has described a specific intended use, staff suggests that the request may be more appropriately considered for a Special Use Permit.

### **RECOMMENDATION:**

Staff recommends Denial, based on the following Findings.

Mari Simbaña  
Program Planner

### **FINDINGS:**

1. This is a request for zone map amendment from R-1 to O-1 on Lot 4A2, Tres Pistoles Del Sol Subdivision, located at 143 Old US 66 East, on the northwest corner of Old US 66 East and Juan Road, containing approximately .80 acres.
2. The property is within the Rural Area as designated by the Albuquerque/Bernalillo County Comprehensive Plan.
3. Zone change approval would constitute a spot zone in that only R-1 and A-2 zoning surrounds the site.
4. This request conflicts with Resolution 116-86 in that the East Mountain Area Plan, Land Use policy #4 does not identify the subject site as being located within a Commercial Corridor or Node.

## **BERNALILLO COUNTY DEPARTMENT COMMENTS**

### Environmental Health:

1. Provide a wastewater system that meets the most current wastewater ordinance of Bernalillo county. There, is an old permit # HSTL-597196 and this wastewater system shall have an inspection and evaluation conducted by applicant and apply for a Operators Permit. The inspection and evaluation shall be conducted to determine the soundness and viability of the system; the operators permit transfer the system from the former owner to the new owner.
2. Provide a drinking water source on the property that complies with the most current well ordinance of Bernalillo county.
3. Same comments as for ZCSU-60002:
  1. A wastewater system that meets the most current wastewater ordinance of Bernalillo county. There, is an old permit # HSTL-597196 and this wastewater system shall have an inspection and evaluation conducted by applicant. The inspection and evaluation shall be conducted to determine the soundness and viability of the system.
  2. Provide a drinking water source on the property that complies with the most current well ordinance of Bernalillo county.

### Zoning Department Manager:

No adverse comments.

### Building Department Manager:

Based on the above comments there is no adverse comments at this time.

### Fire:

No comment received

### Public Works:

#### DRAN:

1. This property is subject to the Bernalillo County Code Chapter 38, however, a grading and drainage plan is not required for this zone change because the changes to the site have been identified as inteior remodeling and minor revisions to the site landscaping.
2. Future improvements that may change existing drainage patterns,, like additional paved parking or perimeter fencing or walls, may require a grading and drainage plan prepared by an engineer licensed in the State of New Mexico and approved by Bernalillo County Public Works

#### DRE:

3/8/06-Approval is conditional upon identification of the size and frequency of the classes to be offered, and how parking will be accommodated on site. DAbright

1. Access to this property shall be taken off Juan Road.

### Parks & Recreation:

Reviewed, No Comment.

Sheriff's: No comment received

**COMMENTS FROM OTHER AGENCIES**

MRGCOG:

No comment.

AMAFCA:

No comment.

City Planning Department:

No comment.

City Public Works:

Transp. Planning: No adverse comments.

Transp. Development: No comment received

Water Resources: No comment received

City Transit:

No transit service is currently available in the area.

ABCWUA Utility Development Section:

No comment received

City Environmental Health:

No comment received

City Open Space:

No comment received

NM Department of Transportation:

The property owner is required to obtain a driveway permit since the use of the property is changing from residential to commercial.

Albuquerque Public School:

No comment received

Village of Tijeras:

No comment received

**NEIGHBORHOOD ASSOCIATIONS:**

East Mountains District 5 Coalition

Monticello Neighborhood Association

Alternative: Approval

**FINDINGS:**

1. This is a request for zone map amendment from R-1 to O-1 on Lot 4A2, Tres Pistolas Del Sol Subdivision, located at 143 Old US 66 East, on the northwest corner of Old US 66 East and Juan Road, containing approximately .80 acres.
2. The property is within the Rural Area as designated by the Albuquerque/Bernalillo County Comprehensive Plan.
3. This request is consistent with Resolution 116-86, in that this land use is more advantageous to the community because it encourages a small-scale business that complements residential areas and reduces the need to travel as articulated in Policies 3.g, 6.a, 6.b & 6.g of the Albuquerque/Bernalillo County Comprehensive Plan.
4. This request is consistent with the (East Mountain Area Plan, Land use goal/objective 11c; Land Use policy #10) in that it maintains a community scale commercial use and provides the opportunity for a locally-owned and operated business.
5. This request is consistent with the health, safety, and general welfare of the residents of the County.